

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

AMERICAN COUNCIL OF THE BLIND)
OF METROPOLITAN CHICAGO, ANN)
BRASH, MAUREEN HENEGHAN, and)
RAY CAMPBELL, on behalf of them-)
selves and all others similarly situated,)

Plaintiffs,)

v.)

CITY OF CHICAGO, CHICAGO)
DEPARTMENT OF TRANSPORT-)
TATION, LORI LIGHTFOOT, in her)
official capacity as Mayor of the City of)
Chicago, and THOMAS CARNEY, in)
his official capacity as Acting)
Commissioner of the Chicago Department)
of Transportation,)

Defendants.)

Case No. 1:19-cv-06322

The Honorable Elaine E. Bucklo

PARTIAL MOTION TO DISMISS FIRST AMENDED COMPLAINT

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), Defendants The City of Chicago (the “City”), The Chicago Department of Transportation (“CDOT”), Lori Lightfoot, in her official capacity as Mayor of the City of Chicago (the “Mayor”), and Thomas Carney, in his official capacity as Acting Commissioner of the Chicago Department of Transportation (the “Acting Commissioner”) (collectively, “Defendants”), by their counsel, Mark A. Flessner, Corporation Counsel for the City of Chicago, hereby move this Court for an order partially dismissing Plaintiffs’ First Amended Complaint on the following grounds, which are more fully set forth in the accompanying Memorandum:

1. Plaintiff American Council of the Blind of Metropolitan Chicago’s (“ACBMC”) vague allegation that it was forced to divert resources from other programs is insufficient to

establish an injury-in-fact. ACBMC has consequently failed to establish Article III standing and should be dismissed with prejudice as a Plaintiff.

2. While none of the Plaintiffs claim to be deaf or to represent deaf individuals, a significant part of the relief that the Plaintiffs seek only benefits pedestrians who are deaf. Consequently, Plaintiffs have failed to meet the redressability requirement of Article III standing, and their claims should be dismissed.

3. While Plaintiffs' claims focus on the current number of accessible pedestrian signals ("APS") in Chicago, they make vague allegations that appear to seek a remedy for actions dating back to 1992. However, the two-year statute of limitations applicable to claims under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act bars any and all of Plaintiffs' claims before September 23, 2017.

4. Plaintiffs' claims against the Mayor, CDOT, and the Acting Commissioner are improper as these claims against agents of and a department of the City are duplicative and redundant. Therefore, all claims against defendants other than the City should be dismissed with prejudice.

5. In support of this Motion, Defendant the City of Chicago submits its accompanying Memorandum.

WHEREFORE, Defendants respectfully request that the Court dismiss with prejudice: (i) Plaintiff ACBMC as a party to this action; (ii) any and all claims before September 23, 2017; and (iii) all claims against defendants the Mayor, CDOT, and the Acting Commissioner. Defendants further respectfully request that the Court dismiss all of Plaintiffs' claims to the extent that they seek relief for the benefit of deaf individuals. Finally, Defendants respectfully request that the Court grant Defendants any other relief as this Court deems just and proper.

Dated: January 2, 2020

MARK A. FLESSNER,
Corporation Counsel for the City of Chicago

By: /s/ John C. Hansberry
Attorney for Defendants

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was filed on January 2, 2020, with the Clerk of the Court by using the CM/ECF system which will send a notice of filing to all counsel of record.

/s/ John C. Hansberry

John C. Hansberry